

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

SAM KOUTCHESFAHANI
11207 Del Diablo
San Diego, CA 92129

Respondent.

Case No. X-54

OAH No. L2002120351


DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by
the Board of Psychology as its Decision in the above-entitled matter.

This Decision shall become effective April 20, 2003.

IT IS SO ORDERED.

Date: March 21, 2003



PAMELA HARMELL, Ph.D., PRESIDENT
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

SAM KOUTCHESFAHANI
11207 Del Diablo
San Diego, CA 92129

Respondent.

Case No. X-54

OAH No. L2002120351

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on February 3, 2003.

Alvin J. Korobkin, Deputy Attorney General, represented Thomas S. O'Connor, the Executive Officer of the Board of Psychology, Department of Consumer Affairs, State of California.

Sam Koutchesfahani represented himself and was present throughout the administrative hearing.

The matter was submitted on February 3, 2003.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 23, 2002, Thomas S. O'Connor (Complainant) signed the Statement of Issues in his official capacity as the Executive Officer, Board of Psychology, Department of Consumer Affairs, State of California.

The Statement of Issues and other jurisdictional documents were served on Sam Koutchesfahani (Respondent).

By Notice of Defense dated October 30, 2002, Respondent requested an administrative hearing.

On February 3, 2003, the record was opened. Jurisdictional documents were presented. Sworn testimony and documentary evidence was received. Closing arguments were given, the record was closed and the matter was submitted.

2. The Statement of Issues essentially alleges that Respondent's application for registration as a psychological assistant should be denied because Respondent was convicted of conspiracy to defraud the United States and tax evasion, both felonies.

Respondent's Background and Education

3. Respondent was born on August 3, 1952, in Stuttgart, Germany. His father was a journalist and an Iranian diplomat. His mother was not employed outside the home. Respondent was an only child.

Respondent lived in Germany for the first five years of his life and learned to speak German and Farsi. Respondent's family returned to Iran in the late 1950s. Respondent attended a United States sponsored elementary school in Teheran. He learned to speak English.

Respondent's parents separated in the 1960s and Respondent came to the United States. He attended a Los Angeles County military academy in junior high school and a Los Angeles County Catholic boarding school throughout high school. He graduated from St. John Bosco High School in June 1970.

Respondent attended Cerritos Community College for two years, then transferred to Cal Poly Pomona. Respondent received a Bachelor of Arts degree in Political Science from Cal Poly in 1976 and a Master of Arts degree in Education from Cal Poly in 1978. While Respondent was attending Cal Poly, he worked at the Lanterman Developmental Center, providing services to profoundly developmentally disabled persons.

Respondent attended Pepperdine University in Los Angeles County for approximately eight months, then ceased his studies when his scholarship was withdrawn following the revolution in Iran.

Respondent held a series of odd jobs, then returned to Iran. After living briefly in Iran, Respondent traveled to London, England. Respondent married Fattaneh Moghadam-Yekta in October 1980 while living in London.

Respondent's marriage is intact. There are two children of the marriage, a daughter born in 1982 and a son born in 1984, both of whom attend college.

Respondent and his wife settled in San Diego where Respondent pursued a doctoral degree in Psychology through Newport University. Respondent also began providing research assistance to foreign students who were attending colleges in Southern California.

Respondent received a Psy.D. from Newport University on March 31, 1990.

4. On November 30, 1990, the Board of Psychology, Department of Consumer Affairs, State of California (the Board) issued Respondent Psychological Assistant Registration No. PSB 18070, authorizing Respondent to provide services under the supervision of Carole A. Grote, Ph.D., a licensed psychologist. Respondent never served as a psychological assistant.

Respondent's registration as a psychological assistant expired on January 31, 1992. It was not renewed and was cancelled on April 2, 1995. There is no history of discipline against Respondent's registration.

The Events Surrounding Respondent's Convictions

5. While Respondent was pursuing his doctoral degree, he discovered there was a large market for his substantial research and writing skills, particularly within the foreign student community in the San Diego area. As a self-employed research assistant, Respondent wrote essays, papers and thesis for foreign students. Many of these students submitted Respondent's work as their own. Respondent's foreign student clientele expanded rapidly.

Respondent became acquainted with administrators and instructors at Southern California colleges who were providing foreign students with admission to colleges and with passing grades sufficient to permit these students to acquire and maintain student visas from the United States Immigration and Naturalization Service (INS).

Respondent did not instigate a conspiracy involving the illicit admission of unqualified foreign students to local colleges nor did he instigate a corrupt system involving the manufacture of counterfeit documents to permit these foreign students to acquire and maintain student visas; however, Respondent did, in his own words, "perfect the system."

Between 1989 and 1994, Respondent and others knowingly and willfully conspired to obstruct and defeat the lawful function of the INS in its enforcement of immigration laws related to student visas through fraudulent and dishonest means.

Respondent solicited and accepted money from foreign students to secure their admission to local colleges. Respondent bribed admissions officers. He arranged for college classroom instructors to issue passing grades to foreign students for classes the students did not attend. Respondent arranged for false documents to be issued that certified that these foreign students had earned sufficient college class credits through correspondence programs to maintain their student visas.

Respondent owned and operated Tan Trading and Consulting Group, a company that he used in furtherance of the conspiracy.

Respondent estimated he earned around \$1,000,000 from these unlawful activities between 1989 and 1994, much of it cash.

Between 1989 and 1994, Respondent substantially understated his income in the United States federal tax returns he filed with the intent to defeat a large part of the income taxes he owed.

Respondent testified that as he gradually became immersed in these illegal activities, the income he earned became an addiction. Respondent purchased several homes in San Diego County. He provided tutors for his children. Respondent used his income to pay for medical treatment, services and hospitalization for his wife, who was diagnosed with cancer. Respondent was unable to give up his lifestyle and feared that without his criminal enterprise he could not meet his many financial obligations.

Respondent's Convictions

6. The longstanding conspiracy was finally uncovered. Richard G. Maldonado, a Senior Student Services Assistant at San Diego City College and a participant in the conspiracy, revealed what he knew to the United States Attorney's Office. Respondent was contacted by the United States Attorney's Office shortly thereafter, but Respondent refused to cooperate in the federal government's initial investigation out of a misguided sense of loyalty to his coconspirators and to those foreign students to whom he had provided services.

7. On January 31, 1996, an Information was filed in the United States District Court, Southern District of California, in Criminal Case No. 96208-B entitled *United States of America, Plaintiff, v. Sam Koutchesfahani, Defendant*. Respondent was charged with violating Title 18, United States Codes, section 371, Conspiracy to Defraud the United States, and Title 26, United States Codes, section 7201, Tax Evasion.

On February 1, 1996, Respondent was arraigned and pled guilty to violating Title 18, United States Codes, section 371, Conspiracy to Defraud the United States, and pled guilty to violating Title 26, United States Codes, section 7201, Tax Evasion.

On November 6, 1998, Respondent was sentenced. Respondent was ordered to pay a \$100 fine, was committed to the custody of the United States Bureau of Prisons for 12 months and was placed on a supervised release program for three years after his release from federal prison.¹

Special conditions of supervision required Respondent to participate in a program of mental health treatment if directed by his probation officer, prohibited him from being involved in assisting foreign students in college admissions, required him to pay tax

¹ Between February 1996 and November 1998, Respondent cooperated with federal authorities in the investigation and prosecution of others involved in the conspiracy. During this period Respondent was not employed and he and his family lived on rental income and on loans secured by real property. Respondent took several substance abuse classes at San Diego Community College and volunteered in community-based service programs.

liabilities for the years 1992-1994 in the approximate amount of \$290,500 and required him to pay a fine of \$100,000 to the United States of America.

Respondent's Activities Following Sentencing

8. Respondent served one year in custody at the Taft Correctional Institution, a federal prison camp near Bakersfield, from November 1998 through November 1999.

9. Respondent spent about a month in a halfway house in San Diego following his release from federal prison, then reunited with his family.

10. Respondent's properties were heavily mortgaged and subject to liens filed by attorneys and law firms. There was insufficient equity in these properties to permit their sale to pay the back taxes and the fine Respondent owed. Another investment Respondent planned to use to pay his attorney fees, back taxes and fine was unpredictably lost in a foreclosure proceeding.²

11. Respondent initiated therapy with Lawrence Woodburn, Ph.D. (Dr. Woodburn), a licensed clinical psychologist, after his release from the halfway house. Respondent sought therapy on his own. It was not a condition of his supervision.

12. Dr. Woodburn has been a licensed psychologist in California since 1978. He has worked under contract with the United States Probation Office since early 1998.

13. Dr. Woodburn first met with Respondent in late 1999 or early 2000. Respondent was candid in his first meeting with Dr. Woodburn, fully disclosing his convictions and the exact nature and extent of his criminal activities.

According to Dr. Woodburn, Respondent was devastated by his convictions and by the shame it brought to his family. Respondent served time in custody when his wife was diagnosed with cancer and needed his support. Respondent worried that his father, who was ill and living in Iran, might never learn the extent to which he was trying to rehabilitate himself and clear his family's name. Respondent felt guilty for letting his family down and he was very angry, believing that he was singled out by prosecutors as the architect of the conspiracy when that was not the case.

Dr. Woodburn specializes in cognitive behavioral therapy. Dr. Woodburn initially met with Respondent about three times a week. As therapy progressed Dr. Woodburn and Respondent met less frequently. Therapy was terminated by mutual consent in March 2001 as a result of Respondent's marked progress, although there was another visit shortly after

² Respondent owned a home in Rancho Santa Fe that was leased to the Heaven's Gate cult. The home became the site of a mass suicide in March 1997. As a result of that incident, the property became unattractive, could not be sold and went into foreclosure.

the September 11 attacks on the Twin Towers and the Pentagon when Respondent felt he was being persecuted because of his Middle East background.

Dr. Woodburn's treatment goals included the resolution of Respondent's guilt and anger and assisting Respondent in making a successful transition back to gainful employment. Dr. Woodburn sought to redirect Respondent's energy from guilt and anger to productive work and an increasing involvement in family matters.

14. Dr. Woodburn testified it was clear that Respondent accepted full responsibility for his misconduct. In therapy Respondent explored how his judgment had become clouded and ultimately resulted in his misconduct. According to Dr. Woodburn, Respondent successfully sublimated his anger and guilt and reached a point where he could function successfully in society.

15. Through his education and life experience, Respondent concluded he would enjoy the opportunity to serve as a substance abuse counselor and as a counselor to persons who had been incarcerated.

16. In June 2002, well after Respondent terminated his professional relationship with Dr. Woodburn, Respondent asked Dr. Woodburn to serve as his supervisor if Respondent were able to receive registration from the Board as a psychological assistant. Dr. Woodburn carefully researched the propriety of supervising a psychological assistant whom he had previously treated. Dr. Woodburn concluded there was no legal or ethical prohibition in doing so.

Dr. Woodburn believed Respondent was skilled in the field of substance abuse and in the treatment of patients with a dual diagnosis. Dr. Woodburn considered whether it might be risky to serve as Respondent's supervisor due to Respondent's prior misconduct. Dr. Woodburn concluded on balance that the risks in supervising Respondent were minimal and that Respondent would be a good candidate for registration as a psychological assistant.

Dr. Woodburn signed Respondent's application for registration as a psychological assistant in March 2002. Dr. Woodburn believed Respondent has the capacity to be a competent psychologist.

17. Respondent disclosed the fact of his convictions in the application he filed for registration as a psychological assistant he filed with the Board. He attached a certified copy of the judgment of conviction and the terms and conditions of his supervised release to his application.³

³ Respondent also disclosed in his application for registration that he was arrested and charged with misuse of a credit card in 1973. Respondent attached certified copies of court documents related to this conviction to his application. According to Respondent's application, the conviction was later expunged under Penal Code section 1203.4.

This conviction was not alleged to be a ground for denial in the Statement of Issues.

18. Respondent obtained employment with Episcopal Community Services following his release from federal prison, providing substance abuse lectures and relapse prevention lectures. Respondent had a carefully monitored caseload of 20-25 persons. He earned about \$10 per hour.

19. About three years ago, Respondent obtained employment as a receiving clerk at Indyme Electronics, Inc., a manufacturer of electronic communication devices, to augment the income he earned at Episcopal Community Services.

Steve Deal (Deal), Indyme's founder and CEO, knew of Respondent and his circumstances through Respondent's participation in a men's service group that Deal was a member of. Deal offered Respondent a part-time job at Indyme. Respondent was forthright with Deal in disclosing his convictions and situation.

Respondent initially worked 20-30 hours per week at Indyme, in addition to working 30 hours a week at Episcopal Community Services. Respondent became a full-time employee at Indyme to acquire much needed medical insurance for himself and his family members. Respondent earned about \$11 per hour when he started working at Indyme and while Respondent has received promotions, his position and income have not increased dramatically.

20. Respondent impressed Deal as "a humble guy whose family was in disarray, but who had considerable drive and desire." Respondent has done well at Indyme. Deal believes Respondent is hard working and is of good moral character.

21. Fred Grimm, a United States Probation Officer, authored a letter dated March 14, 2002, which confirmed that Respondent was incarcerated from November 1998 through November 1999, that he had been fined \$100,000, that Respondent had regularly made payments of \$75 per month to pay that fine but the balance owed on that fine had increased due to interest charges, that he had not violated the terms and conditions of his supervised probation and that he would be released from supervision in November 2002.

Respondent's supervision expired on November 18, 2002, without incident.

22. Respondent still owes approximately \$100,000 on the fine and he owes a substantial amount for back taxes. Due to Respondent's financial circumstances, he is not able to make meaningful payments on either of these debts.

23. Marybeth Rodriguez (Investigator Rodriguez), a Medical Board Investigator, interviewed Respondent on September 3, 2002. Respondent disclosed the fact of his convictions and the circumstances surrounding those convictions in that interview. He discussed his treatment with Dr. Woodburn. Respondent said he wanted to obtain registration as a psychological assistant with the ultimate goal of becoming a licensed psychologist specializing in the field of substance abuse.

Investigator Rodriguez believed Respondent was remorseful, forthcoming and candid in the interview.

Other Matters

24. Respondent provided candid testimony concerning the facts and circumstances surrounding his convictions. He did not blame anyone else for his misfortunes. Respondent acknowledged a "distorted way of thinking" led to his wrongdoing.

Respondent retains some anger for the manner in which he was identified by prosecutors as a ringleader of the conspiracy and because equally culpable but more powerful persons were not prosecuted. Respondent described his prosecution as "a dog and pony show."

Respondent lost a great deal financially as a result of his convictions, but this loss was really nothing more than a forfeiture of the proceeds resulting from his criminal enterprise. Respondent's most significant losses involved his inability to care for his wife in her time in need, the loss of contact with his teenage children for a year, and his Respondent's concern that his father might not live long enough to see Respondent restore the family's good name.

Respondent was forced to examine himself as a result of his experience and he may have regained some of his self-respect as a result of what he went through following his release from custody. Respondent certainly became far more humble. Respondent remains devoted to his family.

25. Respondent testified that he would like to gain registration as a psychological assistant as a preliminary step toward practicing as a licensed psychologist. Respondent believes he has the skill and compassion to help others, particularly to overcome substance abuse and addictions.

Respondent acknowledged there is a greater financial reward in practicing as a licensed psychologist than there is in practicing as a certified substance abuse counselor at a government facility or a non-profit clinic.

Functions and Duties of a Psychologist/Psychological Assistant

26. A licensed psychologist and a registered psychological assistant apply psychological principles, methods and procedures of understanding, predicting and influencing behavior in the areas of learning, perception, motivation, emotions and interpersonal relationships.

Therapeutic techniques may involve counseling, psychotherapy,⁴ behavior modification, hypnosis and the administration of psychological tests.

The goals of psychologists and psychological assistants include the diagnosis, prevention, treatment and amelioration of psychological problems and emotional and mental disorders.

The practice of psychology set forth in Business and Professions Code section 2903 describes what psychology is as a legal matter. As a practical matter, the practice of psychology requires a psychologist or a psychological assistant to not only possess the requisite training and experience, but also the temperament and character to place a patient's interests and needs paramount to his or her own in the professional relationship. Client confidences must not be disclosed, except when required by law. In the confidential relationship that exists the person providing psychological services must not take advantage of the client.

It is hard to imagine any other professional relationship requiring a patient to reveal his or her most innermost feelings and fears to the extent that such disclosure is required in a relationship between a psychologist or a psychological assistant and his or her patient. It is hard to conceive of any professional relationship in which a patient might be more vulnerable and subject to a myriad of abuses, both emotional and financial.

27. The Board has a mandate to license only those persons who are of good moral character and who meet the technical, educational, and clinical requirements required by law. Requiring less would put consumers of psychological services at extreme risk and would shake the public's confidence in the profession.

28. There is probably no other profession that holds so dear the notion that personal change is possible and that persons can become rehabilitated.

Disciplinary Guidelines

29. The Board published a set of disciplinary guidelines. The Board recognized that a rare individual case might require a departure from these guidelines. The Board requested that in such a rare case the mitigating factors necessitating the departure be included in the Proposed Decision.

The Board has concluded that if at the time of the hearing, the Administrative Law Judge finds that the respondent, for any reason, is not capable of safe practice, then the respondent shall not be permitted to practice.

⁴

Psychotherapy is the use of psychological methods in a professional relationship to assist a patient to acquire greater human effectiveness or to modify feelings, conditions, attitudes and behavior which are emotionally, intellectually or socially ineffectual or maladjustive.

30. The conviction of a crime substantially related to the practice of psychology (Bus. & Prof. Code § 2960(a)) and the commission of any dishonest, corrupt or fraudulent act (Bus. & Prof. Code § 2960(n)) carry the same guideline: the maximum sanction is revocation or the denial of license or registration application; the minimum sanction is five years probation, a billing monitor (if a financial crime), therapy, and oral jurisprudence examination, restitution (if appropriate), community service, and other standard terms and conditions of probation.

Evaluation

31. The purpose of an administrative disciplinary proceeding is not to punish an individual, but to assure the protection of the public. The practice of a licensed psychologist and a registered psychological assistant require an individual to possess considerable training, experience and good moral character.

Respondent engaged in a highly sophisticated criminal enterprise for more than five years. He realized a substantial income by facilitating the admission of unqualified foreign students into colleges throughout Southern California. He assisted these students in purchasing fraudulent grades and in their placement at other institutions. Respondent knew his crimes impacted the responsibility of the INS to issue student visas only to qualified foreign students. He took advantage.

Respondent was and is a highly intelligent individual. There was never a time that he was unaware of the nature and extent of his wrongdoing. Respondent engaged in these crimes to benefit himself and his family.

Respondent's crimes brought disrespect to legitimate foreign students, to academic institutions, to his family and to himself. There was never a time when Respondent was unaware of his wrongdoing.

Respondent served one year in federal prison and completed three years of supervised probation. In that regard, he accomplished what was ordered. He has not paid his fine or back taxes due to his changed financial circumstances.

Respondent voluntarily entered counseling and by all accounts explored those defects of character underlying his decision to engage in crimes. He seeks a second chance. He would like to help others.

While Respondent presented a sympathetic case and produced substantial evidence in rehabilitation, it cannot be concluded at this time that he is sufficiently rehabilitated to provide care and treatment to others as a registered psychological assistant. Respondent's opportunity to enter the field will certainly improve with the passage of time and the further demonstration of his emerging good moral character.

LEGAL CONCLUSIONS

Standard of Proof

1. The burden of proof is on the applicant for a license or permit. See, *Martin v. Alcoholic Beverage Control Bd.* (1959) 52 Cal.2d 259, 265.

The standard of proof an applicant must meet is a preponderance of the evidence. See, *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855.

A "preponderance of the evidence" means evidence that has more convincing force than that opposed to it. See, *BAJI* 2.60.

Psychological Assistants

2. Business and Professions Code section 2913 provides in pertinent part:

"A person other than a licensed psychologist may be employed by a licensed psychologist . . . provided that all of the following apply:

(a) The person is termed a 'psychological assistant.'

(b) The person . . . (3) has completed a doctoral degree which qualifies for licensure under Section 2914, in an accredited or approved university, college, or professional school located in the United States or Canada.

(c) The person is at all times under the immediate supervision, as defined in regulations adopted by the board, of a licensed psychologist . . . who shall be responsible for insuring that the extent, kind, and quality of the psychological services he or she performs are consistent with his or her training and experience and be responsible for his or her compliance with this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist . . . has registered the psychological assistant with the board. The registration shall be renewed annually in accordance with regulations adopted by the board.

No licensed psychologist may register, employ, or supervise more than three psychological assistants at any given time unless specifically authorized to do so by the board. . . No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise, except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation, or medical corporation.

(e) The psychological assistant shall comply with regulations that the board may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the board to be in violation of Section 2960 and the rules and regulations duly adopted thereunder."

3. Business and Professions Code section 2915 provides in pertinent part:

"Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology . . . obtained from an accredited university, college, or professional school.

No educational institution shall be denied recognition as an accredited academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the board by educational institutions of their departments of psychology or their doctoral programs in psychology.

...

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist. . .

The board shall establish qualifications by regulation for supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the board under this chapter. . ."

The Disciplinary Statutes

4. Business and Professions Code section 2960 provides in pertinent part:

"The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions . . . if the applicant . . . has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

...

(n) The commission of any dishonest, corrupt, or fraudulent act. . .”

5. Business and Professions Code section 480 provides in pertinent part:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made. . .”

Cause Exists To Deny The Application

6. Cause exists under Business and Professions Code sections 2960(a) and 480(a) to deny Respondent's application to be registered as a psychological assistant.

Between 1989 and 1994, Respondent engaged in dishonesty and fraud through his active participation in a highly sophisticated criminal enterprise. He realized a substantial income by facilitating the admission of unqualified foreign students into colleges throughout Southern California. He assisted these students in purchasing fraudulent grades and in their placement at other institutions. Respondent was convicted of violating Title 18, United States Codes, section 371 (Conspiracy to Defraud the United States) and Title 26, United States Codes, section 7201 (Tax Evasion), both felonies and each a crime involving moral turpitude. Respondent's misconduct was substantially and adversely related to the qualifications, functions and duties of a registered psychological assistant.

This conclusion is based on Factual Findings 5, 6, 26, 27, and 29-31 and on Legal Conclusions 1-5.

7. Cause exists under Business and Professions Code sections 2960(a) and 480(n) to deny Respondent's application to be registered as a psychological assistant.

Between 1989 and 1994, Respondent engaged in dishonesty and fraud by involving himself in a highly sophisticated criminal enterprise. He realized a substantial income by facilitating the admission of unqualified foreign students into colleges throughout Southern California. He assisted these students in purchasing fraudulent grades and in their placement at other institutions. Respondent was convicted of violating Title 18, United States Codes, section 371 (Conspiracy to Defraud the United States) and Title 26, United States Codes, section 7201 (Tax Evasion), both felonies and each a crime involving moral turpitude. Respondent's misconduct was substantially and adversely related to the qualifications, functions and duties of a registered psychological assistant.

This conclusion is based on Factual Findings 5, 6, 26, 27, and 29-31 and on Legal Conclusions 1-5.

Costs of Investigation and Enforcement

8. Government Code section 125.3(a) provides in pertinent part:

"... the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

9. A "licentiate" is a person who has received a license to practice an art or a profession. See, *The Random House Dictionary of the English Language* (2nd Edition, Unabridged).

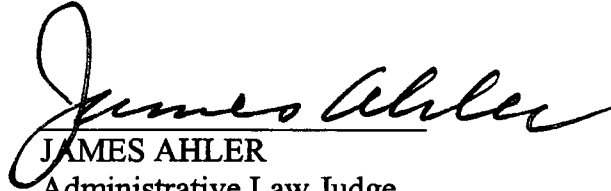
10. Respondent does not hold any license issued by the Board of Psychology. He is an applicant. Business and Professions Code section 125.3 does not apply and there is no legal basis to support an award of costs.

This conclusion is based on Factual Finding 4 and on Legal Conclusions 9 and 10.

ORDER

Sam Koutchesfahani's application for registration as a psychological assistant is denied.

DATED: 2/11/03


JAMES AHLER
Administrative Law Judge
Office of Administrative Hearings